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REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

STRONG MAYOR CHARTER AMENDMENT

INTRODUCTION

In accordance with direction provided by the Rules Committee on June 16, 2004, the Strong Mayor charter proposal considered by the Rules Committee is attached to this report for Council consideration for placement on the November 2, 2004, ballot. The proposal has been incorporated into a format suitable for an election ordinance.

The Rules Committee directed the City Attorney to analyze the substantive comments made by members of the public at the June 16, 2004, Rules meeting and to suggest any additional changes. At that meeting, several speakers commented that language in proposed section 265 did not clearly delineate the responsibilities for executing and enforcing the City's laws, ordinances, and policies. In particular, it was suggested that this proposal could be interpreted as taking power away from the City Attorney. This is neither the intent nor effect of the proposal.

ANALYSIS

Section 28 of the City Charter [Charter] currently provides that the City Manager shall have the duty "to see that the ordinances of the City and the laws of the State are enforced; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council." This power is proposed to be transferred to the Mayor.

The powers of the City Attorney are provided for in Charter section 40, which states that it shall be the duty of the City Attorney to "prosecute or defend, as the case may be, all suits or cases to which the City may be a party" and to "prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of the City Attorney by law." The authority of the City Attorney to handle enforcement matters for the City in the courts is also referenced in another part of Charter section 40 which provides that "The City Attorney shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the

City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption.”

RECOMMENDATION

Charter section 40 is not intended to be changed by this proposal, nor is the balance of responsibility for enforcement that exists between the City’s chief executive officer and the City Attorney. City Attorney candidates Aguirre and Devaney made suggestions at the June 16, 2004, Rules meeting to clarify this point. The following change (in underline/strikeout) to proposed section 265(b)(2) should clarify and put to rest this issue, and is recommended for the Council's consideration.

Section 265: The Mayor

- (a) [No Change]
- (b) In addition to exercising the authority, power, and responsibilities formally conferred upon the City Manager as described in section 260(b), the Mayor shall have the following additional rights, powers, and duties:
 - (1) [No Change]
 - (2) Execute and enforce all laws, ordinances, and policies of the City, including the right to promulgate and issue administrative regulations that give controlling direction to the administrative service of the City. Nothing in this section shall be interpreted or applied to add or subtract from powers conferred upon the City Attorney in Charter section 40.

Respectfully submitted,

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City Attorney

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